

Assembly Bill No. 2276

CHAPTER 770

An act to add Article 8 (commencing with Section 41985) to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2276, Pavley. Ozone: indoor air cleaning devices.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources, including emissions of volatile organic compounds from consumer products. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires each district to attain ambient air standards for specified air pollutants, including, but not limited to, ozone. Existing law classifies emissions of ozone in nonattainment areas as moderate, serious, severe, or extreme. Existing law generally sets forth crimes and penalties for violations of air pollution laws and any rule, regulation, permit, or order of the state board.

This bill would require the state board, on or before December 31, 2008, to develop and adopt regulations, consistent with federal law and including specified elements, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces. Because a violation of these regulations would come within the existing provision making a violation of state board regulations a crime, this bill would create a state-mandated local program by expanding an existing crime. The bill would make related legislative findings and declarations. The bill would authorize the state board to seek a preemption waiver from the federal government to authorize the state board to adopt regulations that are more stringent than federal law.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 8 (commencing with Section 41985) is added to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, to read:

Article 8. Indoor Air Cleaning Devices

41985. The Legislature finds and declares all of the following:

(a) Ozone is a harmful air pollutant and lung irritant that has serious health impacts at current levels in outdoor air. The state board has determined that each year exposure to ozone results in significant numbers of premature deaths, hospitalizations due to respiratory and cardiac illnesses, emergency room visits for asthma for children under 18 years of age, school absences, and restricted activity days.

(b) Ozone exposure poses a serious health hazard, whether exposure is from outdoor or indoor sources.

(c) Research has demonstrated that long-term exposure to ozone may permanently damage lung tissue and reduce a person's breathing ability.

(d) According to recent studies, ozone-generating air cleaning devices have produced harmful levels of ozone indoors, up to three times the state outdoor air quality standard of 90 parts per billion within an hour or two of operation.

(e) Ozone is not an effective cleaner for indoor air when operated at levels that are safe for human occupation. Independent studies cited by the United States Environmental Protection Agency and the Consumers Union have shown that ozone-generating air cleaning devices do not destroy microbes or reduce indoor air pollutants effectively enough to provide any measurable health benefits.

(f) The state board, the State Department of Health Services, and other governmental agencies have issued warnings to advise the public not to use devices that are specifically designed to generate ozone indoors and advertised or marketed as air cleaning devices.

(g) Ozone emitted from indoor air cleaning devices poses an unnecessary risk to public health, and, therefore, it is the intent of the Legislature that the state board establish regulations to promote improved public health by restricting ozone emissions generated by these devices.

41985.5. For purposes of this article, the following terms have the following meanings:

(a) "Federal ozone emissions limit for air cleaning devices" means the level of generation of ozone above which the device would be considered adulterated or misbranded pursuant to Section 801.415 of Title 21 of the Code of Federal Regulations, specifically the generation of ozone at a level in excess of 0.05 part per million by volume of air circulating through the device or causing an accumulation of ozone in excess of 0.05 part per million by volume of air when measured under standard conditions at 25 degrees Celsius (77 degrees Fahrenheit) and 760

millimeters of mercury in the atmosphere of enclosed space intended to be occupied by people for extended periods of time.

(b) “Medical device” means “device” as defined in subsection (h) of Section 321 of Title 21 of the United States Code.

41986. (a) On or before December 31, 2008, the state board shall develop and adopt regulations, consistent with federal law, to protect public health from ozone emitted by indoor air cleaning devices, including both medical and nonmedical devices, used in occupied spaces.

(b) The regulations shall include all of the following elements:

(1) An emission concentration standard for ozone emissions that is equivalent to the federal ozone emissions limit for air cleaning devices.

(2) Testing procedures for manufacturers to utilize to determine ozone emissions from devices. In developing the procedures, the state board shall consider existing and proposed testing methods, including, but not limited to, those developed by the American National Standards Institute and Underwriters Laboratory.

(3) Certification procedures that enable the state board to verify that an indoor air cleaning device meets the emission concentration standard for ozone emissions using the testing procedures adopted by the state board.

(4) (A) Package labeling requirements that indicate that an indoor air cleaning device is certified as meeting the emission concentration standard for ozone emissions.

(B) The state board shall consider recommendations of affected industries and the public in developing the labeling requirements.

(C) The label for an indoor air cleaning device that is not a medical device shall include the following statement: “This air cleaner complies with the federal ozone emissions limit.”

(D) The label for an indoor air cleaning device that is a medical device shall be labeled in compliance with federal law, including Section 801.415 of Title 21 of the Code of Federal Regulations.

(c) The regulations may include any or all of the following elements:

(1) A ban on the sale of air cleaning devices that exceed the emission concentration standard for ozone emissions from indoor air cleaning devices adopted by the state board.

(2) Procedures for authorizing independent laboratories or other approved certification organizations to verify products as meeting the emission concentration standard for ozone emissions from indoor air cleaning devices adopted by the state board. Any authorization shall ensure that verification shall be conducted consistent with the testing procedures adopted by the state board.

(3) An exemption for indoor air cleaning devices that, by design, emit de minimis levels of ozone during their operation, as determined by the state board.

(4) Any other element the state board determines to be necessary to protect the public health from emissions of ozone from indoor air cleaning devices that exceed the emission concentration standard for ozone emissions from air cleaning devices and are used in occupied spaces.

(d) Devices verified by the state board or the United States Food and Drug Administration as meeting the emission concentration standard for ozone emissions from indoor air cleaning devices and the labeling requirements adopted by the state board shall not be subject to further regulatory requirements for ozone pursuant to this article.

(e) It is the intent of the Legislature that this section be interpreted and applied in a manner that is consistent with federal law. The regulations adopted by the state board pursuant to this section shall be consistent with federal law. The state board may, to the extent a waiver is required, seek a preemption waiver from the federal government to authorize the state board to adopt regulations that are more stringent than federal law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.